

ESTTA Tracking number: **ESTTA621276**Filing date: **08/13/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Specialised Imaging Ltd.		
Entity	Private limited company	Citizenship	United Kingdom
Address	Unit 32 Silk Mill Industrial Estate Brook Street Tring, HP235EF UNITED KINGDOM		

Attorney information	Darin L. Brown Holland & Hart LLP P.O. Box 8749 Denver, CO 80201 UNITED STATES docket@hollandhart.com, dlbrown@hollandhart.com, jshajek@hollandhart.com, lmroot@hollandhart.com Phone:3034732731
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**Registration Subject to Cancellation**

Registration No	4395912	Registration date	09/03/2013
Registrant	Hadland Imaging LLC 802 Seabright Avenue Santa Cruz, CA 95062 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 009. First Use: 2010/01/01 First Use In Commerce: 2012/01/01 All goods and services in the class are cancelled, namely: Cameras
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**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Lack of bona fide use in commerce.

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	86245480	Application Date	04/08/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	KIRANA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 Cameras

Attachments	86245480#TMSN.png( bytes ) KIRANA - Petition for Cancellation.pdf(98854 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/darin l. brown/
Name	Darin L. Brown
Date	08/13/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SPECIALISED IMAGING LTD.	)	
	)	
Petitioner,	)	<b>Registration No. 4,395,912</b>
	)	
v.	)	<b>Mark: KIRANA</b>
	)	
HADLAND IMAGING LLC,	)	
	)	
Respondent.	)	
	)	
	)	

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**PETITION FOR CANCELLATION**

Specialised Imaging Ltd. (“Petitioner”), believes that it is being damaged by and will continue to be damaged by the registration of the mark KIRANA for “*cameras*” in International Class 9, as shown in Registration No. 4,395,912 and through its attorneys, petitions to cancel this registration.

In support of this Petition for Cancellation, Petitioner allege as follows:

1. Petitioner Specialised Imaging Ltd. (“SIL”) is a United Kingdom private limited company, having a principal place of business at Unit 32 Silk Mill Industrial Estate, Brook Street, Tring, United Kingdom HP235EF, that specializes in the design, manufacture, service, and supply of ultra-high-speed imaging systems and components for industrial, military, and scientific applications.

2. Petitioner is the owner of common law trademarks rights in the U.S. to KIRANA in connection with cameras based on its use of the mark in commerce since at least as early as September 20, 2012, when it showcased and demonstrated ultra-high-speed (“UHS”) video

cameras bearing the KIRANA mark at the Hypervelocity Impact Symposium held in Baltimore, Maryland from September 16-20, 2012 (the “2012 Baltimore Symposium”).

3. Since the 2012 Baltimore Symposium, Petitioner has sold a number of UHS video cameras bearing the KIRANA mark within the U.S.

4. Petitioner is also the owner of an application to register KIRANA for use in connection with “cameras” in International Class 9 (Serial No. 86/245,480).

5. Hadland Imaging LLC (“Respondent”) is a California limited liability company whose address is 802 Seabright Avenue, Santa Cruz, California 95062.

6. Upon information and belief, one of Respondent’s principals is an individual named Todd Rumbaugh.

7. Upon information and belief, Todd Rumbaugh attended the 2012 Baltimore Symposium and learned of Petitioner’s use of KIRANA on UHS video cameras at the 2012 Baltimore Symposium.

8. Shortly after the 2012 Baltimore Symposium, on or about January 25, 2013, Respondent filed a trademark application to register KIRANA for use in connection with “cameras” in International Class 9, which was assigned Serial No. 85/833,138 (“Respondent’s Application”) on the basis of Respondent’s alleged use of the mark in commerce under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a). Respondent’s Application matured into U.S. Reg. No. 4,395,912.

9. In Respondent’s Application, Respondent claimed that it first used KIRANA on cameras anywhere as early as January 1, 2010 and that it first used KIRANA on cameras in commerce as early as January 1, 2012.

10. Upon information and belief, Respondent was not using the mark KIRANA on or in connection with “cameras” on January 1, 2010, January 1, 2012, or even when it filed Respondent’s Application on January 25, 2013.

11. Furthermore, upon information and belief, Respondent has never used KIRANA in connection with cameras.

12. Both Petitioner and Respondent do business in the highly specialized UHS video camera industry and are competitors. Petitioner and Respondent often attend the same trade shows, conferences, and other events dedicated to the UHS video camera industry.

13. In the course of Petitioner’s dealings with Respondent, which date back to 2003, Petitioner has never witnessed Respondent’s use of KIRANA – a mark that is identical to Petitioner’s own mark and covers identical goods.

14. Upon information and belief, there are no trade journals or other publications within the UHS video camera field containing information about Respondent’s use of KIRANA on cameras.

15. Upon information and belief, Respondent’s own website at [www.hadlandimaging.com](http://www.hadlandimaging.com) contains no references to KIRANA and provides no evidence that Respondent has ever used or is currently using the mark KIRANA on cameras.

16. Upon information and belief, the specimen of use that Respondent submitted in support of Respondent’s Application is an altered photo purporting to show Respondent’s use of KIRANA on a UHS video camera. Upon information and belief, in reality, Respondent never made any use of KIRANA on the camera depicted in the specimen of use.

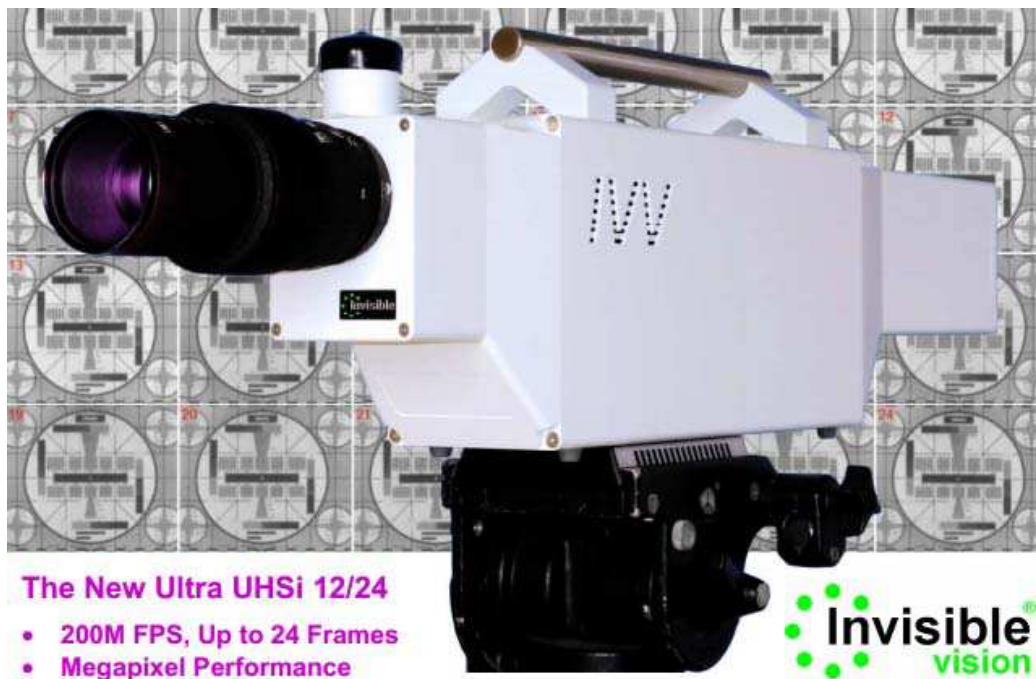
17. Upon information and belief, Respondent altered a photo of a camera manufactured by a third party company named Invisible Vision Ltd. (“Invisible Vision”) by

removing Invisible Vision's trademarks and replacing them with Respondent's own marks, including the KIRANA mark. Upon information and belief, Respondent also removed several hardware features from the image of Invisible Vision's camera. The doctored areas of Respondent's specimen of use are easily perceptible because they appear discolored or blurry compared to the unaltered areas. The altered specimen of use along with a true-to-life image of Invisible Vision's product are reproduced below:

*Respondent's Specimen of Use Filed In Support of Respondent's Application:*



*Invisible Vision's Photograph (the true image):*



18. Upon information and belief, Invisible Vision, the owner of the altered camera image utilized by Respondent as its specimen of use for Respondent's Application, is not and was not involved in Respondent's alleged use or registration of KIRANA and did not grant Respondent permission to use either the original photo or the altered photo.

**COUNT I**  
**Lack of *Bona Fide* Use of the KIRANA Mark In Commerce**

19. Petitioner repeats and realleges the allegations set forth in the preceding paragraphs of this Petition for Cancellation.

20. Respondent obtained registration of KIRANA under Section 1(a) of the Lanham Act based on its sworn declaration that it was using the mark in commerce.

21. Upon information and belief, Respondent was not using KIRANA on cameras at any time prior to the filing date of Respondent's Application on January 25, 2013.

22. Upon information and belief, Respondent has never used KIRANA in commerce in connection with cameras.

23. Accordingly, Registration No. 4,395,912 was improperly obtained and is void, *ab initio*, in its entirety.

**COUNT II**  
**Registration Procured by Fraud**

24. Petitioner repeats and realleges the allegations set forth in the preceding paragraphs of this Petition for Cancellation.

25. Upon information and belief, Respondent submitted a declaration to the U.S. Patent & Trademark Office ("USPTO") for Respondent's Application in which it declared, under oath, being warned that willful false statements, and the like, may jeopardize the validity of the application, that "[t]he applicant is using the mark in commerce, or the applicant's related

company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services," with full knowledge that it had not used KIRANA in commerce.

26. Upon information and belief, Respondent had not used the KIRANA mark in commerce prior to filing Respondent's Application.

27. Upon information and belief, Respondent has never used the KIRANA mark on cameras.

28. Upon information and belief, Respondent, with full knowledge that it was not using the KIRANA mark in commerce, intentionally altered and submitted a fraudulent specimen of use to the USPTO in support of Respondent's Application in order to deceive the USPTO into approving the mark for registration.

29. Upon information and belief, Respondent was fully aware of that material fact as of the filing date of Application Serial No. 85/833,138 and Applicant's signature on its sworn declaration, as evidenced by Respondent's elaborate doctoring of an image of a third party's product in an attempt to pass that product off as its own.

30. Accordingly, Respondent's Application was materially false, made in bad faith, and made in a concerted attempt to perpetrate a fraud upon the USPTO.

31. As a result of this fraud, Respondent's Registration No. 4,395,912 was invalidly obtained and should be cancelled.

### **COUNT III** **Abandonment**

32. Petitioner repeats and realleges the allegations set forth in the preceding paragraphs of this Petition for Cancellation.

33. Upon information and belief, Respondent has not used the KIRANA mark in any advertising of any cameras in the U.S. ever.

34. Upon information and belief, Respondent has not offered for sale any cameras in conjunction with the KIRANA mark in the U.S.

35. Upon information and belief, Respondent has not sold any cameras in conjunction with the KIRANA mark in the U.S.

36. Upon information and belief, Respondent has not used the mark in U.S. commerce within the last three years – or ever – and has abandoned any rights in the mark KIRANA. As a result of this abandonment, Respondent's Registration No. 4,395,912 should be cancelled.

**COUNT IV**  
**Likelihood of Confusion (15 U.S.C. § 1052(d))**

37. Petitioner repeats and realleges the allegations set forth in the preceding paragraphs of this Petition for Cancellation.

38. In the alternative, even if Respondent has used the trademark KIRANA on cameras, such use did not occur prior to Petitioner's first use of KIRANA on cameras on September 20, 2012.

39. Because Respondent's KIRANA mark is identical to Petitioner's KIRANA mark and because both marks cover identical goods (cameras), Respondent's use – if any at all – of KIRANA is likely to cause confusion, mistake, or deception in the minds of prospective consumers as to the origin, sponsorship, or approval of Respondent's listed goods, within the meaning of Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

40. Therefore, Respondent's Registration No. 4,395,912 for KIRANA should be cancelled based on a likelihood of confusion with Petitioner's KIRANA mark.

WHEREFORE, Petitioner respectfully requests that Registration No. 4,395,912 for the mark KIRANA be cancelled.

The filing fee of \$300 is transmitted electronically with this submission.

Dated this 13th day of August, 2014.

Respectfully submitted,

/s/ Darin L. Brown  
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**Attorneys for Petitioner  
Specialised Imaging Ltd.**

**CERTIFICATE OF SERVICE**

I certify that on August 13, 2014, I served a copy of the above PETITION FOR CANCELLATION to the following by:

☒  
☐  
☐

U.S. Mail, postage prepaid  
Hand Delivery  
Fax

Hadland Imaging LLC  
802 Seabright Ave.  
Santa Cruz, CA 95062

/s/ Darin L. Brown

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